

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**CHERYL GORDON,**

**Plaintiff,**

**v.**

**KAMERON PATTON, et al.,**

**Defendants.**

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**Case No.: 2:17-CV-1731-RDP**


**ORDER**

This matter is before the court on Defendant Patton's Motion to Dismiss for Want of Personal Jurisdiction (Doc. # 16) and Plaintiff's Motion for Leave to Respond to Defendant's Motion to Dismiss or, in the Alternative, to Transfer this Case to the Northern District of Georgia, Atlanta Division (Doc. # 18). On April 2, 2018, the court held a telephone conference on this matter.

Title 28 U.S.C. § 1406(a) provides, "The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." In this case Plaintiff filed suit in this district even though Patton does not reside here and the accident occurred near Atlanta, Georgia. Thus, venue is not proper here and in personam jurisdiction has not been waived. Having said that, "[g]enerally, the court should transfer if dismissal would result in a statute of limitations barring the plaintiff from refiling her claim." *Pritchett v. Paschall Truck Lines, Inc.*, 714 F. Supp. 2d 1171, 1175 (M.D. Ala. 2010) (finding that transfer was more appropriate than dismissal when dismissal would cause the plaintiff's claims to be time-barred).

For the reasons explained on the record in the April 2, 2018 telephone conference, the court finds that it is in the interest of justice to transfer this case; therefore, Plaintiff's Motion to Transfer (Doc. # 18) is **GRANTED**. Accordingly, Defendant Patton's Motion to Dismiss (Doc. # 16) is **MOOT**, and the Clerk of Court is **DIRECTED** to take all steps necessary to transfer this action to the Northern District of Georgia.

**DONE** and **ORDERED** this April 2, 2018.

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**R. DAVID PROCTOR**  
UNITED STATES DISTRICT JUDGE